

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 2:12-cr-00001

CURTIS DASHAWN CANTY,

Defendant.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the *Defendant's Motion to Dismiss for Violation of His Sixth Amendment Right to a Speedy Trial* (Document 23), filed on February 22, 2019, and the United States' *Response to Defendant's Motion to Dismiss for Violation of His Sixth Amendment Right to a Speedy Trial* (Document 25), filed on February 26, 2019.


On January 3, 2019, the Court entered an *Order of Reference* (Document 10), referring, *inter alia*, motions to dismiss, to Magistrate Judge Omar J. Aboulhosen for proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On February 27, 2019, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 26), recommending that the Court find that the Defendant "has demonstrated a presumption of prejudice against him by the uncommonly long and unreasonable delay from the Indictment until his arrest," that his Sixth Amendment right to a speedy trial has been violated and grant his motion to dismiss. (PF&R at 6.) Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by March 1, 2019.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the United States' right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the *Defendant's Motion to Dismiss for Violation of His Sixth Amendment Right to a Speedy Trial* (Document 23) be **GRANTED** and that the *Indictment* (Document 1) against the Defendant be **DISMISSED**. The Court further **ORDERS** that all pending motions in this matter be **TERMINATED AS MOOT** and that the Defendant be **RELEASED** from detention as to this matter immediately.

The Court **DIRECTS** the Clerk to send a copy of this Order to the Defendant and counsel, to the United States Attorney, to the United States Probation Office, and to the Office of the United States Marshal.

ENTER: March 4, 2019


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA